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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Khiam Rehabilitation Center for Victims of Torture, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[24 May 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Bahrain: The Anti-Terrorism Law- A tool for political repression and persecution*

Bahrain issued Law No. 58 of 2006 on The Protection of Society against Terrorist Acts while it was witnessing some political disputes regarding constitutional amendments and some laws issued by the government, which were considered by political and human rights figures restrictive to political action. Despite popular and political parties' disapproval of passing this law, the government took advantage of the opposition's boycott of the 2002 elections, and because of the pro-government majority in the Council, the elected House of Representatives and the appointed Shura Council approved the new bill on July 16 and July 22, 2006, respectively. It was then presented to the King of Bahrain Hamad bin Isa for final ratification.

This came after the government presented the law to the House of Representatives for urgent consideration before other topics listed in the agenda of the House of Representatives. The King of Bahrain met with the Presidents of the House of Representatives and the Shura Council and the heads of blocs and committees in both councils, and the King emphasized in that meeting the importance of issuing that law.

On the other hand, the UN Committee against Torture and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism expressed concerns that the Bill will jeopardize the peaceful exercise of human rights. In addition, Amnesty International strongly urged the King to launch a comprehensive review of the Bill and amend it so that it becomes in line with the standards of the international human rights law.1

The promulgation of the Law on The Protection of Society against Terrorist Acts, also known as the Terrorism Law in Bahrain, was somehow a revival of the State Security Law, which was used primarily for political purposes and allowed the security services for almost 25 years to detain citizens for years without trial and caused a number of serious violations against citizens. It was repealed in 2001 due to the popular and political demands, in preparation for political reform. Therefore, the adoption of a law such as the Anti-Terrorism Law allowed the same old practices and violations to reoccur, since the security services and the judicial system used the Anti-Terrorism Law to punish many protesters and political activists as well as some media activists. The implementation of this law has caused many violations against those who are detained under this law, especially since 2011, which witnessed widespread protests in Bahrain.

Moreover, the law was amended twice. The first amendment was under Decree Law No. 20 of 2013,as part of the government's policy of targeting the opposition by describing the protests as acts of terrorism. The second amendment was under Decree Law No. 68 of 2014 to tighten the stranglehold on the popular movement and protests and to make penalties and procedures harsher (which will be explained later on). The Terror Crime Prosecution was established due to the crisis witnessed by Bahrain since 2011, and was formed by Royal Decree No. 64 of 2014. The appointments came from one sect only, and members of the Military Prosecution were appointed in the Public Prosecution, which sends a clear political message, making it a non-independent prosecution, completely submissive to the authorities and constrained by government orders.

Since 2011 until the issuance of this report, the Bahraini courts issued several judicial rulings that have political and human rights backgrounds, in trials that lacked the simplest guarantees and standards of fair trials. Many of these were under the Law on The Protection of Society against Terrorist Acts, which is used by the government as a tool of political persecution.

Conclusions and recommendations

Based on the above, the following results can be presented:

1Bahrain: Counter-terrorism bill threatens human rights, statement by Amnesty International 7/27/2006

- The Law on the Protection of Society against Terrorist Acts and its amendments reinstate the era of the State Security Law and decide to re-apply the National Safety Decree, which resulted in serious violations in 2011. In addition, they indicate an undeclared state of emergency in Bahrain whenever it is wanted, under the pretext of maintaining public security. Moreover, the Anti-Terrorism Law does not provide any safeguards against the extensive human rights violations that accompanied that era. In fact, the authorities acknowledge the occurrence of the violations since the king of Bahrain admitted it in the report of the Bahrain Independent Commission of Inquiry (BICI).Not to mention, an official statement had said that the protection of human rights should not preclude the achievement of security, which is considered more important than human rights. This indicates that main training security and stability conflicts with the protection of rights and freedoms, which is contrary to universal concepts, which stipulate that the protection of rights and freedoms is what ensures security and stability.

- Bahrain's security authorities have used the law disproportionately, according to the report of the BICI and the report of Human Rights Watch,"No Justice in Bahrain."The reports concluded that the law is not applied equally ,but selectively, in order to punish and deter the peaceful opposition. The Bahraini authorities have not responded to these conclusions in such reports. Rather, this disproportionate application of the law has continued and escalated with the continued use of the Anti-Terrorism Law and its amendments in order to repress political action and the exercise of public freedoms.

- Concerns are raised by the fact that pre-trial detention is actually a punishment for political dissidents, and the disproportionate application of the law confirms this. While an accused is sent to pre-trial detention solely for a tweet on Twitter, others, who are accused of more serious, obvious and aggravated offenses, are not sent to pre-trial detention. More proof of the above is that the accused is often kept in detention for the maximum period, without realistic justification, and during this period, the public prosecution does not conduct any serious investigations; the accused faces a procedure that is closer to a penalty.

- International and domestic reports, including reports issued by the Bahrain Forum for Human Rights, emphasize the absence of fair trials standards and guarantees, both before and during the trial. These reports have identified clear failures in the realization of many principles, standards and safeguards such as the right of the accused to defend himself, or ensuring the most basic rights of the accused. In addition, all investigations into acts that are adapted as terrorist acts pass through the same stages. First, the accused is isolated from the outside world and subjected to enforced disappearance for a relatively long period. Then, during that period after the accused is arrested, he is allowed a single phone call to tell his family "I'm ok," without being allowed to disclose his place or the charges against him. Finally, the accused is not allowed to hire a lawyer or have access to appropriate legal advice. In many cases, the lawyers are unable to meet with the accused before the first hearing of the trial. This happens particularly because the amendments to the law stipulate that the period of detention may be extended for six months by the order of the Attorney-General or his representative, without resolving the legal argument held before the court that the accused must have a lawyer to defend him from the process of gathering evidence, through the interrogation and finally the trial. Therefore, the practical practice of the law and its amendments permits isolating the accused from the outside world for up to six months, as the lawyers cannot be present during the interrogation process. However, the BICI report states that isolating the accused from the outside world is a form of torture.

- Although the BICI report clearly states in the recommendation in paragraph 1253 that the burden of proving torture should be on the State, the authorities ignore this recommendation. In fact, the practice indicates growing allegations of torture by defendants in cases classified as terrorist. This occurs while there are no effective measures to prevent torture, the policy of impunity continues, and security members who violate human rights are protected.

In light of the above, we recommends the abolition of Law No. 58 of 2006 on the Protection of Society against Terrorist Acts. It also recommends the abolition of judicial verdicts against citizens who have been prosecuted in the light of this law, and emphasizes the need to investigate the allegations of torture and abuses and hold those involved in them accountable.

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*Bahrain Forum for Human Rights (BFHR), NGO without consultative status, also shares the views expressed in this statement.